

AUG 03 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

MONICA A. VALLADARES,

Plaintiff - Appellant,

v.

BRIAN LEE TENNANT; et al.,

Defendants - Appellees.

No. 05-16256

D.C. No. CV-04-04544-JW/HRL

MEMORANDUM^{*}

Appeal from the United States District Court
for the Northern District of California
James Ware, District Judge, Presiding

Submitted July 24, 2006^{**}

Before: ALARCÓN, HAWKINS, and THOMAS, Circuit Judges.

Monica A. Valladares appeals pro se from the district court's judgment dismissing without prejudice her action for failure to timely serve the summons and complaint. We have jurisdiction under 28 U.S.C. § 1291. We review for

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

abuse of discretion, *Walker v. Sumner*, 14 F.3d 1415, 1422 (9th Cir. 1994), and we affirm.

The district court properly dismissed the action without prejudice to refiling, because Valladares failed to serve a summons and complaint on the defendant within 120 days, or to show good cause for this failure. *See* Fed. R. Civ. P. 4(m); *Oyama v. Sheehan (In re Sheehan)*, 253 F.3d 507, 512-13 (9th Cir. 2001).

The remaining contentions lack merit.

AFFIRMED.